

Congress of the United States
House of Representatives
Washington, DC 20515-3805

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December 10, 2009

The Honorable Ray LaHood
Secretary
United States Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary LaHood,

I write you in strong opposition to the Commonwealth of Pennsylvania's most recent application to qualify for Phase I "provisional" authority to implement tolls on Interstate 80 in Pennsylvania, under the Interstate Rehabilitation and Reconstruction Pilot Program (ISRRPP), as authorized by Section 1216(b) of the Transportation Equity Act of the 21st Century (P.L. 105-178).

I greatly appreciate the policy issues facing the Department of Transportation (DOT) and commend your efforts to bring attention to the significant role transportation infrastructure plays in our national economic recovery. On February 22nd, 1955, President Dwight D. Eisenhower said "Together, the united forces of our communication and transportation systems are dynamic elements in the very name we bear - United States. Without them, we would be a mere alliance of many separate parts." As you are very well aware those words put in motion the Federal-Aid Highway Act of 1956. In time, the Interstate Highway System became the greatest public works project in history and our country has greatly benefitted from its construction.

The Interstate Highway System has enhanced the flow of goods and services throughout the country and has improved our economy and the lives of our citizens, while allowing America to remain competitive in a global market. Tolling existing Interstate capacity will do nothing more than cripple an already ailing economy. This is why I was so pleased to learn that during your Senate Confirmation hearing on January 21st, 2009, you expressed similar reservations to tolling existing interstate capacity.

As you are aware, in 2007, the Pennsylvania Department of Transportation (PennDOT) and the Pennsylvania Turnpike Commission (PTC) entered into a public-public partnership as prescribed by Pennsylvania Act 44, signed into law by Governor Ed Rendell on July 18, 2009. Subsequent applications to the DOT for federal tolling authority of I-80 were declined; most recently on September 11th, 2008, the Federal Highway Administration (FHWA) refused to move the application forward because the lease payments were predetermined by the Pennsylvania General Assembly on a basis unrelated to the true costs associated with a lease of the facility. It was clear the lease payment was based on an assessment of statewide transportation funding needs, as opposed to a market-based analysis of the value of I-80. This was the second time FHWA denied Pennsylvania's application.

The ISRRPP was created in 1998, yet to date no state has successfully converted an Interstate to a tolled facility. Congressional intent dictated that the eligibility criteria for the ISRRPP was set high, largely due to the notion the ISRRPP can only be used as a last resort for a state, rather than a means of creating a transportation funding mechanism, as Pennsylvania has attempted unsuccessfully. Due to the lack of success in the program, the House Transportation and Infrastructure Committee published *A Blueprint for Investment and Reform, the Federal Surface Transportation Framework*, on June 18, 2009, which included the ISRRPP for termination in the upcoming Surface Transportation Authorization Act of 2009.

Section 1216(b) of TEA-21 provides for limitations on toll revenues received from operation of the toll facility to be intended for the maintenance and reconstruction of the interstate. TEA-21, section 1216(b)(3)(C) stipulates that a ISRRPP candidate facility can have no other means of sustaining current maintenance levels in order to convert the facility to a toll road. However, between 2004 and 2007, \$412 million in federal funding was diverted to mass transit and other accounts for uses outside of building and maintaining the Commonwealth's roads and bridges. Furthermore, a 2007 memo from FHWA cited PennDOT's lengthy history of transferring Interstate Maintenance (IM) funds to other Federal-aid programs, rescinding IM funds, and maintaining a balance of \$312 million in unobligated IM funds, which could have otherwise been utilized for operations and maintenance of I-80. Historically, PennDOT has invested \$50-\$60 million per year in capital improvements for I-80, making the balance of unobligated IM funds at the time of Act 44's passage nearly six times the annual operations and maintenance costs on the facility.

A 2005 Pennsylvania Department of Transportation (PennDOT) study, "*with assistance from the Pennsylvania Turnpike Commission*", concluded "*converting I-80 to a toll road not be pursued at this time. The initial impetus for converting I-80 to a toll road no longer exists. The once deteriorating condition of I-80 has been corrected by PennDOT and the annual cost of maintaining I-80 is no longer an abnormal drain on PennDOT's budget.*" The revised application transmitted to FHWA on October 28, 2009 attempts to counter PennDOT's 2005 findings, however I-80 is in the best shape of all Pennsylvania Interstates and the proposal is based upon anticipated future needs. Many of the improvements proposed go well beyond the basic pavement reconstruction and rehabilitation needs, making the plan inconsistent with the ISRRPP statute.

In September 2006, DOT issued a solicitation for Interstate "Corridors of the Future", that promised priority among the Department's various tolling pilot programs to selected projects. However, Pennsylvania did not submit an application for I-80 under this solicitation.

Shortly thereafter, tolling became a "need" as the PTC was under increased threat of being leased as part of a proposed public-private partnership, in which a private company would assume management duties of the Pennsylvania Turnpike in exchange for a one-time upfront payment to the state.

At the same time, personnel at the PTC were the focus of investigations in which federal indictments were handed down. One of the figures, a Pennsylvania General Assembly Senator, who played a key role in developing Act 44, has since been convicted and sentenced to prison. Additionally, the same investigation forced the firing of the PTC Chairman and resulted in his wife's conviction on 45 counts of corruption for which she currently is serving a prison term. In Pennsylvania's case, the I-80 tolling proposal served as a means of preventing the accountability and review that potential private investment in the Pennsylvania Turnpike would have required.

Most recently, the PTC has been under investigation by the FBI regarding a highway widening project that came in \$91 million over the original project bid. It has also been reported throughout the state that the PTC currently is being investigated by the Pennsylvania Attorney General for links between political donations and turnpike contracts.

In light of the decades of corruption at the PTC, on December 8, 2009, Pennsylvania General Assembly Representative Mike Vereb introduced legislation to eliminate the PTC and shift control of the Turnpike operations to PennDOT. Vereb said the PTC has been "shrouded in a cloud of corruption and scandal."

Just as suspect, is the PTC's attempt to rectify the lack of a market-based analysis of the value of I-80 in their most recent submission of "Financial Valuation for Proposed Rentals of Interstate 80", conducted by Provident Capital Advisors, which prior to June 30th, 2009 was actually "Provident Healthcare Coalition". To say the least, it is alarming the PTC would engage a firm with no prior background in conducting a review of such magnitude. In fact, *The Sharon Herald* reported on November 18th, 2009 that the PTC spokesman, Bill Capone had said "*the commission ran the firm it selected under the highway administration's nose before they used them*". It was later confirmed with FHWA officials that Capone's statement was indeed false and that neither DOT nor FHWA would place the impartiality of the current review in question by making a recommendation to the PTC in regard to which firm should conduct the market-based analysis. This begs the question, why did the PTC choose Provident Capital Advisors given their lack of credibility and no history of dealing with transportation infrastructure finance, when there are clearly a number of qualified firms that handle market-based analysis on a regular basis?

Dubious motivations aside, tolling I-80 will have a disastrous effect on the economy of the corridor and Commonwealth of Pennsylvania as a whole. The revenue projections from I-80 tolling are flawed, in part because diversion of truck and auto traffic has not been factored into the equation. Diversion will undoubtedly cause a number of adverse effects on traffic volume on secondary roads, resulting in increased maintenance costs, safety, and environmental concerns. As such, diversion would subsequently limit toll revenues, which would increase risk of the financial plan that is dependent upon highly back loaded debt service payments. These uncertainties place the sustainability of the debt service at risk, ultimately leaving the Pennsylvania Motor License Fund and the taxpayers of Pennsylvania responsible.

Pennsylvania should not be permitted to construct a scenario where they paint a “doom and gloom” situation and work themselves into the ISRRPP through ill-advised financing and bond issuance since the initial application to FHWA in 2007. It is clear at the time of Act 44’s passage, Pennsylvania had more than enough resources to maintain and operate I-80. Congressional intent was to ensure the ISRRPP remained a last resort for a state that could otherwise not continue to maintain a facility. Considering the needs on other Interstate routes in the state, the improvements proposed for I-80 appear to go beyond the basic pavement reconstruction and rehabilitation needs and are clearly a means of funding transportation projects not located on the I-80 corridor.

The intent of Congress was to insure that if such dramatic policy shifts as tolling existing federal interstates were permitted, goals such as reducing congestion, environmental benefits, and improving road maintenance must be achieved. The purpose of programs such as the ISRRPP is not to enable transportation officials to create questionable financial models under questionable circumstances, which result in increased debt and higher costs for the residents of Pennsylvania and those traveling within and through the state.

For these many reasons, I respectfully request that you reject Pennsylvania’s attempt at entering Phase I of the ISRRPP for the third time and use your discretion as Secretary to deny Pennsylvania from further pursuing candidacy for the tolling of Interstate 80 under the ISRRPP.

Most Sincerely,

A handwritten signature in black ink that reads "Glenn 'GT' Thompson". The signature is fluid and cursive, with the first name "Glenn" and the last name "Thompson" clearly legible, and the initials "GT" in the middle.

Glenn 'GT' Thompson

Member of Congress

Cc: John D. Porcari, Deputy Secretary of Transportation
Victor Mendez, FHWA Administrator
Greg Nadeau, FHWA Deputy Administrator
Karen Hedlund, Chief Counsel FHWA
Michael Harkins, Office of the Chief Counsel, FHWA
Mark Sullivan, Chief TIFIA, FHWA
Dwight Horne, Director, Office of Program Administration, FHWA
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